

(2019) 09 RAJ CK 0178
In the Rajasthan High Court
Case No : Civil Writ Petition No. 10774 Of 2010

Hardeep Singh And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 18-09-2019

Acts Referred:

Farmers' Participation In Management Of Irrigation Systems Act, 2000 — Section 3, 4, 6, 8, 18, 19, 23, 29, 30, 35
Micro, Small And Medium Enterprises Development Act, 2006 — Section 18(3), 21(1), 30
Arbitration And Conciliation Act, 1996 — Section 36(1)
Bihar And Orissa Cooperative Societies Act, 1935 — Section 40, 48
Delhi Act, 1991 — Section 60
Rajasthan Irrigation And Drainage Rules, 1955 — Rule 11
Madhya Pradesh Micro And Small Enterprises Facilitation Council Rules, 2006 — Rule 5
Constitution Of India, 1950 — Article 14

Citation : (2019) 09 RAJ CK 0178

Hon'ble Judges : S. Ravindra Bhat, CJ; Dr. Pushpendra Singh Bhati, J

Bench : Division Bench

Advocate : VK Agarwal, Dr. RDSS Kharlia, Rekha Borana

Final Decision : Dismissed

Judgement

1. The present writ petition challenges an amendment to Rule 11 of the Rajasthan Irrigation and Drainage Rules, 1955 (hereinafter referred to as "1955 Rules") by notification dated 17.05.2010 on the ground of it being beyond the scope of the parent legislation, i.e., Rajasthan Irrigation and Drainage Act, 1954 (hereinafter referred to as "1954 Act").

2. The 1954 Act governs the issues related to irrigation; the subsequently enacted Farmers' Participation in Management of Irrigation Systems Act, 2000 (hereinafter referred to as "Act of 2000") also covers some aspects of management of irrigation systems. Under these legislations, the 1955 Rules, and the Rajasthan Farmers Participation in Management of Irrigation Systems Rules, 2002 (hereinafter referred to as "2002 Rules") respectively were framed.

3. The Act of 2000 provides for democratization of the process of irrigation management in the villages and increased farmer participation. According to the objects of the Act, it "is an act to provide for farmers participation in the management of irrigation system and for matters connected therewith or incidental thereto". Sections 4, 5, 6, 7, 8, 9 and 35 provide for a Water User's Association (hereinafter referred to as "WUA"), Managing Committee of the WUA, Managing Committee of the Distributary Committee, Managing Committee of the Project Committee and the Apex Committee. A reading of the grievance redressal mechanism reveals that there is substantial departure from the 1954 Act and pre-amended 1955 Rules, which provided that orders of the Divisional Irrigation Officers were appealable to the Superintending Irrigation Officer whose order was final. Other provisions of the said enactments are mostly independent of each other and the later Act, reiterates in Section 2(2), that if any term or expression used (in the Act of 2000) is not explained or defined, it shall be as defined by the Act of 1954.

4. The petitioners highlight that there are two contradictory provisions in the Act of 2002 vis-a-vis the Act of 1954, those being- i) the powers of maintenance of Warabandi (barabandi) to be regulated by and ii) the grievance redress mechanism.

5. One Mukhtyar Singh (late father of the fifth, seventh and ninth respondents and Jeet Singh, sixth respondent (and late father of eighth respondent), were owners of parts of land in Chak 22 RB in Sri Ganganagar district. There are two systems of barabandi (warabandi) prevalent in 1317.12 bighas of the CCA (Canal Command Area) of Chak 22 RB viz. Khatewar barabandi in 188 bighas and Panchayati barabandi in 1065 bighas. Mukhtyar Singh and Jeet Singh had filed an application dated 2.5.2008 with the Executive Engineer (Divisional Irrigation Officer) for establishing Khatewar barabandi in the entire Chak. The Executive Engineer, by order dated 18.06.2010, dismissed the application upon examining the report made by the Assistant Engineer.

Aggrieved by that order, the fifth to ninth respondents filed an appeal before the Superintending Engineer who rejected it and upheld the said order on 10.08.2010.

6. Thereafter, the fifth respondent, Gurmej Singh (son of Mukhtyar Singh), moved an application before Principal Secretary, Water Resources, Jaipur for introduction of Khatewar barabandi in the entire Chak on 12.10.2010. The Principal Secretary, upon receiving the application, sought a report from the third respondent i.e. the Superintending Engineer, who furnished it on 13.10.2010. On 02.11.2010, the Principal Secretary, by his letter directed the Superintending Engineer, to introduce Khatewar barabandi through the Water Users Association in the entire Chak on account of the Gazette notification dated 13.05.2010, amending Rule 11 of the 1955 Rules, empowering the WUA to establish permanent barabandi in a Chak.

7. The petitioner is aggrieved by the order of the Principal Secretary. He challenges, inter alia the vires of the amended Rule 11 of the 1955 Rules (as amended on 17.05.2010), and also questions the legality of the Principal Secretary's order. The petitioners also seek an order clarifying that the Act of 2000 and the 2002 Rules override the provisions of 1954 Act and the 1955 Rules. Without prejudice to these pleas, they seek directions to the respondents that until the functionaries under the Act of 2000 are constituted, any action under the Act of 2000 would be uncalled for and would be illegal.

8. Counsel for the petitioners submitted that in terms of the pre-amendment rules of 1955, no further appeal from the order of the Superintending Engineer is provided for and thus, irrigation authorities (Principal Secretary) did not have any jurisdiction to hear the matter. It is also submitted that the Act of 2000 has no overriding effect on the Act of 1954 and also that the 1955 Rules cannot override the express provisions of the Act of 1954 which confer authority upon the Divisional Irrigation Officer (DIO) with respect to distribution of water. Therefore, the amendment to the rules cannot override the express provisions of the Act. Counsel further submits that the Managing Committee of the WUA can only have implementation and recommendation powers, which earlier used to be the responsibility of the Assistant Engineers and consequently, Section 17 of the Act of 2000 does not take away the power of the DIO to sanction the water supply on the basis of the given conditions. In this regard, the counsel relies on the judgment in *M.G. Pandke v. Municipal Council, Hinganghat*, AIR 1993 SC 142.

9. The petitioners argue that the order dated 02.11.2010 was passed in violation of principles of natural Justice since no opportunity of being heard was given to them thereby violating their right under Article 14 of the Constitution. It is further submitted that the Apex Committee contemplated under the appellate mechanism under Section 29 of the Act of 2000, has not yet been formed as required by Section 35 of that Act and hence, any action under the Act of 2000 is uncalled for.

10. Counsel for the State submits that the Act of 2000 and the 2002 Rules do not override the 1954 Act and 1955 Rules. It is also submitted by the State that the WUA for 22 RB has been established and whole records of barabandi and revenue recovery have been transferred to the WUA and that following the amendment to Rule 11, water turns or sharing arrangements can only be managed by the WUA. It is further submitted that the order dated 02.11.2010 was passed only to implement the provisions of the amended 1955 Rules and no notice was required to be given.

11. Counsel appearing on behalf of the private respondents submitted that by virtue of the new amendment in Rule 11 dated 17.05.2010, and the enactment of Act of 2000, only one form of Barabandi system exists which is Khatewar barabandi system according to which, each user would be given water facility in terms of the Khata or land rights in which land is situated. No water facility in terms of the Khatewar system would be provided from one Murabba to another.

12. Having heard counsel for the parties, this Court is of opinion that the questions which are to be decided are firstly, whether the Rule 11 of the 1955 Rules as amended on 17.05.2010 is ultra vires the Act of 1954 and whether the Act of 2000 overrides the earlier Act of 1954, and whether anyone can claim relief under the Act of 1954 if the WUA or any appellate body is not formed as per the Act of 2000 or alternatively, non-formation of appellate body in terms of the grievance redressal method available under the Act of 2000, would render the process of justice as nugatory, thus, enabling the aggrieved party to claim relief under the Act of 1954.

13. The relevant provision -Rule 11 -in issue reads as follows:

"11. Distribution of canal irrigation. - [(1) The Divisional Officer shall not authorise outlets on any canal exceeding the authorised or actual canal capacity, whichever is less, so that on release, water may run in the canal from head to tail. No Irrigation from canal will be drawn from outlets other than those authorised by the Divisional Irrigation Officer. Outlets not so authorised may be removed and no claims in this respect shall lie against the Government. Persons violating this rule will be liable to punishment under Section 55(9) of the Act.]

(2) No material change shall be made in an established system of canal distribution except under the orders of the Divisional Irrigation Officer. Appeal against the orders of the Divisional Irrigation Officer, shall lie to the Superintending Irrigation Officer within 15 days from the date of issue of such orders and his decision in the matter shall be final.

(3) Notice for the reduction and removal of outlets with brief reasons therefor, shall be issued by the Divisional Irrigation Officer and given adequate publicity through Panchayats requiring all persons affected by such reduction or removal, who may wish to make objections to submit their objections in writing to the Divisional Irrigation Officer with 15 days from the date of issue of such notice. The Divisional Irrigation Officer shall, after, considering all such objections, make necessary orders. Appeal if any, against the orders of the Divisional Irrigation Officer shall lie to the Superintending Irrigation Officer within 15 days from the date of issue of the orders and his decision in the matter shall be final.

(4) In case the Divisional Irrigational Officer is of the opinion that distribution of irrigation in a 'chak' is not being ensured equitably and economically and Barabandi is essential: he may enforce Barabandi in the 'chak' concerned after giving adequate publicity through Panchayats of his intentions of doing so. Appeal if any against the orders of the Divisional Officer shall lie to the Superintending Irrigation Officer within 15 days from the date of the issue of orders and his decision in the matter shall be final. Breach of such Barabandi will be an offence punishable under section 55(9) of the Act."

14. The Act of 2000 provides for farmers' participation in the management of Irrigation System and for matters connected therewith or incidental thereto. This Act enables delineation of water users' area and territorial constituencies. The

Project Authority may, by notification, delineate every command area under each of the irrigation systems on a hydraulic basis which may be administratively viable and declare it to be a water users' area for the purpose of this Act. Every water users' area shall be divided into territorial constituencies which shall not be less than four but not more than ten, as may be prescribed.

15. The objects of the Farmers' Organization is to secure and promote water distribution amongst its users, adequate maintenance of the irrigation system, efficient and economical utilization of water to optimize agricultural production, to protect the environment, and to ensure ecological balance by involving the farmers, including a sense of ownership of the irrigation system in accordance with the water budget and the operational plan. The WUA has various functions, such as:

to prepare and implement a warabandi schedule for each irrigation season, consistent with the operational plan, based upon the entitlement, area, soil and cropping pattern;

to prepare a plan for the maintenance, extension, improvements, renovation and modernization of irrigation system in the area of its operation and carry out such works of both distributary system and field drains in its area of operation with the funds of the association from time to time;

to regulate the use of water among the various outlets under its area of operation according to the warabandi schedule of the system;

to promote economy in the use of water allocated; to prepare demand and collect water charges;

to maintain a register of land owners as published by the revenue department;

to prepare and maintain an inventory of the irrigation system within the area of operation;

to monitor flow of water for irrigation;

to resolve the disputes, if any, between its Members and water users in its area of operation; to raise resources;

to maintain accounts;

to cause annual audit of its accounts;

to assist in the conduct of elections to the Managing Committee;

to maintain such other records, as may be prescribed;

to abide by the decisions of the Distributary and Project Committee;

to conduct General Body meeting in the manner, as may be prescribed;

to encourage avenue plantation on canal bunds and tank bunds by leasing such

bunds, and

to conduct regular water budgeting and also to conduct periodical social audit in the manner, as may be prescribed.

16. The WUA is constituted under Section 4; a Distributory committee is constituted - at the secondary level, under Section 6 and the Project Committee is constituted at the project level, under Section 8. Under the Act of 2000, the Project Committee has the power, under Section 3 by notification to delineate "every command area under each of the irrigation systems on a hydraulic basis which may be administratively viable". The main task of the Project Committee, under Section 23 is the "delineation of Water Users' Area and its territorial constituencies; and delineation of distributory area." Under Section 19, its powers and functions are to:-

"(a) approve an operational plan based on its entitlement, area, soil, cropping pattern as prepared by the Competent Authority in respect of the entire project area at the beginning of each irrigation season;

(b) to approve a plan for the extension, improvements, renovation, modernization and annual maintenance of irrigation system including the major drains within its area of operation at the end of each crop season;

(c) to maintain a list of the Distributory Committees and Water Users' Associations in its area of operation;

(d) to maintain an inventory of the distributory and drainage systems in its area of operation;

(e) to resolve disputes, if any, between the Distributory Committees."

17. The Distributory committee's functions, delineated under Section 18, include regulation of water use among the various Water Users' Associations under its area of operation; resolution of disputes, if any, between the Water Users' Associations in its area of operation; maintenance of register Water Users' Associations in its area of operation; maintenance of inventory of the irrigation system in the area of its operation, including drains and promotion of economy in the use of water allocated.

18. The legislative intent, clear from the scheme of the Act of 2000 and its statement of objects and reasons is to ensure farmers' participation "in the Management of Irrigation System and for matters connected therewith and incidental thereto..." The avowed object of the earlier enactment (Act of 1954) on the other hand, is "to regulate irrigation and drainage" in the State of Rajasthan. Pre-amended Rule 11 of the Rajasthan Irrigation and Drainage Rules, 1955, empowered Divisional Irrigation Officer under the Act of 1954. However, with the advent of the Act of 2000, the position of law changed. The legislature provided a different grievance redressal mechanism to the farmers with regard to matters relating to irrigation. The rule as it stood in its original form is at odds

with the provisions of the Act of 2000. In such cases, established canons of construction require that a law shall be devoid of absurdity or shall be decipherable in clear form, (Shamrao V. Parulekar v. District Magistrate, Thana, Bombay and Two Others, AIR 1952 SC 324) in its wisdom the legislature found it fit to amend the Rule 11 of the Rules of 1955 to remove any inconsistency with the later and more specific enactment that was Rajasthan Farmers' Participation in Management of Irrigation System Act, 2000.

19. In the opinion of the court, Rule is intra vires, inasmuch as the amendment (to the rule) has the effect of only facilitating proper and efficient enforcement of the Act of 2000. It does not have the effect of abrogating or extinguishing any rights of water users. In the present case, the amendment to the rule simply corrects the course of seeking relief by approaching the Water User Association and the dispute resolution mechanism as provided under the Act of 2000 and in cases where the WUA has not been formed, the relief can be sought from the Divisional Irrigation Officer.

20. In considering the petitioners' submission, that the amended rule traversing beyond the scope of the parent Act (of 1954), it is an established rule of interpretation to read the subordinate legislation within the larger meaning of the parent statute. This was highlighted in Commissioner of Central Excise & Customs v. Venus Castings (P) Ltd., AIR 2000 SC 1568, as follows:

"In holding whether a relevant rule to be ultra vires it becomes necessary to take into consideration the purpose of the enactment as a whole, starting from the preamble to the last provision thereto. If the entire enactment is read as a whole indicates the purpose and that purpose is carried out by the rules, the same cannot be stated to be ultra vires of the provisions of the enactment."

21. Likewise, in State of T.N. and Another v. P. Krishnamurthy and Others, AIR 2006 SC 1622, the court citing a catena of related decisions (such as: Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India, 1986 159 ITR 856, Supreme Court Employees Welfare Association v. Union of India, 1989 IILLJ 506 SC, Shri Sitaram Sugar Co. Ltd. v. Union of India, 1990 1 SCR 909 etc.), delved into the grounds on which a sub-ordinate legislation can be challenged and stated as follows:

"12. There is a presumption in favour of constitutionality or validity of a sub-ordinate Legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognized that a sub-ordinate legislation can be challenged under any of the following grounds:-

- a) Lack of legislative competence to make the sub-ordinate legislation.
- b) Violation of Fundamental Rights guaranteed under the Constitution of India.
- c) Violation of any provision of the Constitution of India.
- d) Failure to conform to the Statute under which it is made or exceeding the

limits of authority conferred by the enabling Act.

e) Repugnancy to the laws of the land, that is, any enactment.

f) Manifest arbitrariness / unreasonableness (to an extent where court might well say that Legislature never intended to give authority to make such Rules).

The court considering the validity of a sub-ordinate Legislation, will have to consider the nature, object and scheme of the enabling Act, and also the area over which power has been delegated under the Act and then decide whether the subordinate Legislation conforms to the parent Statute. Where a Rule is directly inconsistent with a mandatory provision of the Statute, then, of course, the task of the court is simple and easy. But where the contention is that the inconsistency or non-conformity of the Rule is not with reference to any specific provision of the enabling Act, but with the object and scheme of the Parent Act, the court should proceed with caution before declaring invalidity."

22. It is relevant to note here that the Act of 1954 envisaged that there shall be an Irrigation Officer who was to exercise control or jurisdiction over irrigation or drainage or works thereafter, the scheme of the act provided for a Divisional Irrigation Officer and Superintendent Irrigation Officer and both of them were a part of the structure of authorities to be approached in case of any objection or grievance relating to the issue of irrigation and water supply, but after the enactment of the Act of 2000, the process underwent a change and it provided for the Water Users' Association, the Distributor Committee, the Project Committee and the Apex Committee as part of the dispute redressal structure as under section 29 of the Act of 2000.

23. This Court notices that the amended Rule 11, has not abrogated - or denuded, entirely, the powers of the Divisional Irrigation Officer; it merely provides for an alternative method for redressal of grievances to the farmers, and in case a Water Users' Association has not been formed under the Act, the water users can still approach the Divisional Irrigation Officer.

24. Basing its opinion on the Bihar State Co-operative Marketing Union Ltd. v. Uma Shankar Sharan & Another, (1992) 4 SCC 196, the Supreme Court in Power Machines India Limited v. State of Madhya Pradesh and Others, (2017) 7 SCC 323 stated that:

"It is apparent from the aforesaid dictum of Court that providing of plural remedies is valid when two or more remedies are available to a person even if inconsistent, they are valid. It is for the person to elect one of them and there is no question of repugnancy in providing such remedy."

25. This Court is of the opinion that with regard to the submission that the later enactment overrides the earlier one, and consequently, the rules, what is to be noticed is that in the present case, considering that the Act of 2000 is more specific as compared to the Act of 1954, it would follow the principle of legislative propriety, the provisions of the newer act, as far as they impact the old Act, shall

be deemed to have pre-dominance. (Ref may be had to Commercial Tax Officer, Rajasthan v. M/s Binani Cement Ltd., & Anr., [2014] SCR 1, Paras. 41-42). G.P Singh's Principles of Statutory Interpretation has this to say, on the subject:

"A prior general Act may be affected by a subsequent particular or special Act, if the subject matter of the particular Act prior to its enforcement was being governed by the general provisions of the earlier Act. In such a case the operation of the particular Act, may have the effect of partially repealing the general Act, or curtaining its operation, or adding conditions to its operation for the particular cases."

26. The Supreme Court has in the case of Power Machines India Ltd. (supra), dealt with a challenge to the Rule 5 of Madhya Pradesh Micro and Small Enterprises Facilitation Council Rules, 2006 (framed under Section 30 read with section 21(3) of the Micro, Small and Medium Enterprises Development Act, 2006). Rule 5 provided for recovery of the amount for which award made under Section 18(3) of the Act of 2006 as arrears of land revenue, thereby providing additional remedy for recovery of the awarded sum than the one provided in section 36(1) of the Arbitration and Conciliation Act, 1996 that:

"15. In "Principles of Statutory Interpretation" by Justice G.P. Singh, 14th Edn. while dealing with the question of inconsistency and repugnancy, it has been observed that harmonious construction has to be adopted and the principle that special provision excludes the application of general provision has not been applied when two provisions deal with the remedies for the reason that the validity of plural remedies cannot be doubted, even if the two remedies are inconsistent, court has to harmonize the provisions. Following discussion has been made:

"(b) Inconsistency and repugnancy to be avoided; harmonious construction

It has already been seen that a statute must be read as a whole and one provision of the Act should be construed with reference to other provisions in the same Act so as to make consistent enactment of the whole statute. Such a construction has the merit of avoiding any inconsistency or repugnancy either within a section or between a section and other parts of the statute. It is the duty of the courts to avoid "a head on clash" between two sections of the same Act and, "whenever it is possible to do so, to construe provisions which appear to conflict so that they harmonise". Accordingly, the provisions of the Maharashtra Regional and Town Planning Act, 1966, were read together by the Supreme Court and after noting the purpose of the Act. The Act was held not to envisage a situation of conflict, and therefore, the edges were required to be ironed out to read those provisions of the Act which were slightly incongruous, so that all of them are read in consonance with the object of the Act, which is to bring about orderly and planned development. It should not be lightly assumed that "Parliament had given with one hand what it took away with the other". The provisions of one section of a statute cannot be used to defeat those of another

"unless it is impossible to effect reconciliation between them". The same rule applies in regard to sub-sections of a section. In the words of Gajendragadkar, J. "The sub-sections must be read as parts of an integral whole and as being interdependent; an attempt should be made in construing them to reconcile them if it is reasonably possible to do so, and to avoid repugnancy". As stated by Venkatarama Aiyer, J., "The rule of construction is well settled that when there are in an enactment two provisions which cannot be reconciled with each other, they should be so interpreted that, if possible, effect should be given to both. This is what is known as the rule of harmonious construction". That, effect should be given to both, is the very essence of the rule. Thus a construction that reduces one of the provisions to a "useless lumber" or dead letter" is not harmonious construction. To harmonise is not to destroy. A familiar approach in all such cases is to find out which of the two apparently conflicting provisions is more general and which is more specific and to construe the more general one as to exclude the more specific. The question as to the relative nature of the provisions general or special has to be determined with reference to the area and extent of their application either generally or specially in particular situations. The principle is expressed in the maxims *Generalia specialibus non derogant*, and *Generalibus specilia derogant*. If a special provisions is made on a certain matter, that matter is excluded from the general provision. Apart from resolving conflict between two provisions in the Act, the principle can also be used for resolving a conflict between a provision in the Act and a rule made under the Act. Further, these principles have also been applied in resolving a conflict between two different Acts and two provisions in the Constitution added by two different Constitutions Amendment Acts and in the construction of statutory rules and statutory orders. But the principle, that a special provision on a matter excludes the application of a general provision on that matter, has not been applied when the two provisions deal with remedies, for validity of plural remedies cannot be doubted. Even if the two remedies happen to be inconsistent, they continue for the person concerned to choose from. Until he elects one of them.

16. Thus, the submission raised by learned senior counsel on behalf of the appellant that Rule 5 is inconsistent and repugnant to the provisions of section 36 of the Act of 1996 cannot withstand judicial scrutiny and is liable to be rejected on the anvil of the aforesaid reasoning."

27. In *Bihar State Co-operative Marketing Union Ltd.* (supra), question arose of plurality of the remedies provided under sections 40 and 48 of the Bihar and Orissa Cooperative Societies Act, 1935. Both the provisions were attracted to a case. It was held that application of Section 40 will not exclude operation of section 48. It is only a question where one of the provisions has to be opted. The court has further held that when two remedies are provided under a statute, even if inconsistent, would continue to be in operation until one of them is elected for application. Even if the two remedies happen to be inconsistent, they continue for the person concerned to choose from, until he elects one of them, for commencing an action. As no action under section 40 was taken, this Court

held that section 48 was available to the appellant for recovery of the loss. This Court in Bihar State Cooperative Marketing Union Ltd. (supra) held that:

"6. Validity of plural remedies, if available under the law, cannot be doubted. If any standard book on the subject is examined, it will be found that the debate is directed to the application of the principle of election, where two or more remedies are available to a person. Even if the two remedies happen to be inconsistent, they continue for the person concerned to choose from, until he elects one of them, commencing an action accordingly. In the present case, there is no such problem as no steps under Section 40 were ever taken by the appellant. The provisions of Section 48 must, therefore, be held to be available to the appellant for recovery of the loss.

7. Our view that a matter which may attract Section 40 of the Act will continue to be governed by Section 48 also if the necessary conditions are fulfilled, is consistent with the decision of this Court in Prem Jeet Kumar v. Surender Gandotra arising under the Delhi Co-operative Societies Act, 1972. The two Acts are similar and Sections 40 and 48 of the Bihar Act and Sections 59 and 60 of the Delhi Act are in pari materia. The reported judgment followed an earlier decision of this Court in Pentakota Srirakulu v. Co-operative Marketing Society Ltd. We accordingly hold that the High Court was in error in assuming that the application of provisions of Section 48 of the Bihar Act could not be applied to the present case for the reason that Section 40 was attracted."

28. The next question is whether a person can claim relief under the Act of 1954 if the Water Users' Association or any appellate body contemplated by the Act of 2000 is not formed, or alternatively would the non-formation of the appellate body render the process of seeking relief under the Act of 2000 as nugatory, therefore, relief would have to be had under the Act of 1954.

29. In this context, it would be useful to recollect that the Supreme Court in the case of Commissioner of Customs (Import), Mumbai v. Dilip Kumar and Company and Others, AIR 2018 SC 3606 stated that :

"The well settled principle is that when the words in a statute are clear, plain and unambiguous and only one meaning can be inferred, the Courts are bound to give effect to the said meaning irrespective of consequences. If the words in the statute are plain and unambiguous, it becomes necessary to expound those words in their natural and ordinary sense. The words used declare the intention of the Legislature. In Kanai Lal Sur v. Paramnidhi Sadhukhan, AIR 1957 SC 907, it was held that if the words used are capable of one construction only then it would not be open to the Courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act.

30. The present amendment to Rule 11 would in essence display that a person can claim alternative relief by preferring an application before Divisional Irrigation Officer only when the Water Users' Association has not been formed. It

is not mentioned whether the absence of appellate body would entitle the applicant to seek recourse to the jurisdiction of Divisional Irrigation Officer. In the light of the above, the wording of the rule being clear, it does not seem appropriate to intervene with the intention of the legislature.

31. The issue of examining legality of the letter of the Principal Secretary dated 02.11.2010 need not be looked into by this Court in light of the above reasons.

32. In view of the foregoing reasons, the writ petition has to fail; it is hereby dismissed. All pending applications too are dismissed.